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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,074	03/11/2004	Takeshi Kai	12844.0069US01	8087
23552	7590	03/03/2006	EXAMINER	
MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			CULBRETH, ERIC D	
			ART UNIT	PAPER NUMBER
			3616	

DATE MAILED: 03/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/800,074

Applicant(s)

KAI, TAKESHI

Examiner

Eric Culbreth

Art Unit

3616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/11/04 & 12/8/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the narrow and thin portions (claims 5 and 6) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informalities:
 - a. On page 1, line 14 "releases" should be "released".
 - b. Page 2, line 7 is not clear about the reference cited on that page (why is this reference being cited? Is it prior art, a priority document, etc.?).
 - c. On page 2, line 9 a period should follow the parenthesis.
 - d. On page 2, line 12-13 "caused a problem" is idiomatic.
 - e. At page 6, lines 17-20 "..." should be eliminated. This is true throughout the specification (i.e., page 7, line 11; page 8, lines 1-2, 8 and 15; page 9, lines 11 and 20; page 10, lines 3-4; throughout page 11, etc.).
 - f. Page 9, lines 19-25 are an incomplete sentence.Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
 - a. In claim 1, lines 6-7 there is no clear antecedent basis for "the time of collision".

Art Unit: 3616

- b. In claim 5, "narrow" is indefinite (i.e., narrow compared to what).
- c. In claim 6 "thin" is indefinite (i.e., thin compared to what).
- d. Claim 8 contradicts claim 1. Claim 8 recites the brittle portion made of paper, but claim 1 recited the restricting member including a fabric at claim 1, lines 8-9. There is no embodiment of the invention disclosed where the restricting member is made of fabric but the brittle portion is made of paper. The specification discloses that the restricting member (and hence the brittle portion) can be made of paper at page 12, lines 20-22, but there is no disclosure that the fabric restricting member may have a paper brittle section.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1 and 4-8 as best understood are rejected under 35 U.S.C. 102(e) as being anticipated by Vandely et al US006648371B2.

Vandely et al discloses an air bag system comprising a retainer or base plate 48, a folded airbag (note line 2 of the abstract, where the cushion or air bag is deployable

and hence folded before deployment) supported on the retainer, inflator 44 supported on the retainer, and the airbag deployed into the passenger compartment by gas from the inflator at the time of collision. A restricting member 50 (note Figure 4, where member 50 is shorter than the cushion 30 portion under the vent so that it will restrict until released) including a restricting fabric (evidenced by hatching shown in Figure 6 forming the pliable materials of the cushion 30 and the patch 50) is disposed on the outer surface of the bag (column 5, lines 14-16). A brittle portion 58" is on the restricting member, wherein as functionally recited in claim 1, an end portion of the restricting member 50" is coupled to the retainer (loop 56") so that in an earlier stage of deployment of the airbag an axial inflation of the airbag is restricted by the restricting member (before loop 56" is released) and in a later stage of deployment of the air bag, the brittle portion is broken to allow maximum deployment (column 5, lines 25-29). The restricting member 50" closes a vent 34" that is opened when the brittle portion is broken (claim 1). The recitation in claim 4 that the brittle portion is provided at any portion on the restricting fabric is so broad that Vendely et al meets the limitations (i.e., this is true when the bag is being made, not with the finished product; Vendely et al's brittle stitches may be placed at any position during construction inasmuch as applicant's brittle portion). In Figure 6, Vendely et al's patch 50" is partially narrow/thin at the bottom (claims 5-6). The brittle stitches 58" is fabric and attached to a section of fabric (claim 7). The recitation of claim 8 is so indefinite that Vendeley et al meets the positive limitations of the claim.

Allowable Subject Matter

7. Claims 2-3 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion


8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Jenkins US006659499B2 and Bunce et al US006290257B1 show vents that are opened by tethers. Igawa et al US006209911B1 shows tethers with openings at the ends in Figure 10.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Culbreth whose telephone number is 571/272-6668. The examiner can normally be reached on Monday-Thursday, 9:00-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 571/272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3616

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Eric Culbreth
Primary Examiner
Art Unit 3616

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